

REMARKS

In light of the above amendments and remarks to follow, entry of this amendment and reconsideration and allowance of this application are respectfully requested.

Claims 18-26 and 42-47 are pending in this application.

Claims 18-26 and 42-47 were rejected under 35 U.S.C. 103(a) as being unpatentable over Swierczek (U.S. Patent No. 6,941,275).

The present claims are directed to a portable communications device (PCD) which internally "compare[s] the sampled portion signal against said comparison information to identify the full audio work corresponding to the sampled portion signal, to indicate to a user of the portable device the identity of the full audio work." (Claim 18) For example, the claimed embodiment may be a portable device which receives a portion of an audio work and compares it internally with a stored database of comparison information for identifying the full audio work. By way of example and without limiting the claims, support for the claim may be found at paragraph 21, on page 18, of the Specification.

The Examiner contends Swierczek anticipates the present claims. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). The Examiner relies upon Swierczek as disclosing a processing unit to analyze the music at column 3, lines 16-36. (Office Action page 2) However, Swierczek discloses that the device transmits the recorded music segment to an external processing unit which performs the comparison.

Swierczek's approach is more appropriately compared to a different (non-claimed) embodiment of the present invention in which the present portable device uploads the sampled portion to an audio recognition service for identification. (See paragraph 19, on page 17, of the Specification) By contrast, the present claims require the comparison to be performed by a processor internal to the portable device itself. Swierczek does not disclose performing the comparison/identification within the portable device as required in the present claims. Accordingly, for at least this reason, Swierczek fails to obviate the present invention and the rejected claims should be allowed.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.


Application No.: 09/888,352

Docket No.: SONY 3.0-053

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095.

Dated: January 30, 2007

Respectfully submitted,

By 

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